IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 73/2005

(Santokh Singh V/s State of Rajasthan)

Date of Order : 19/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. S.S.Dhillon, for the petitioner.
Mr. V.R.Mehta, P.P.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 20.10.2004 passed by the Judicial Magistrate, Sri Karanpur (for short 'the trial court' hereinafter) in Criminal Misc. Case No. 258/95 whereby the trial court framed the charge against the petitioner for the offence under Section 32 of the Representation of People Act, 1950 (for short 'the Act' hereinafter).

Heard learned counsel for the parties. Perused the order impugned as also record of the trial court.

From the perusal of the record it appears that after framing of the charge, the trial court recorded the statements of some of the prosecution witnesses.

Learned counsel for the petitioner submits that Section 32 (3) of the Act provides that no Court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the Election Commission or the Chief Electoral officer of the State concerned and in the instant case no such authorization has been made.

Learned public prosecutor submits that the powers have been deleted by the Chief Electoral Officer of the State in favour of the complainant.

Be that as it may. Since the trial court has recorded the evidence after framing of the charge, in my view, it is not appropriate to go into this question at this stage. The petition is therefore, dismissed. However, it is open for the petitioner to raise this contention during trial at appropriate stage. Record of the trial court be returned forthwith.

(H.R.PANWAR),J.

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